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UNCLAS SECTION 01 OF 05 GENEVA 002203

SIPDIS

PASS USTR FOR DWOSKIN/KLEIN/HICKS
EB/OT FOR CRAFT
USDA FOR FAS/ITP/SHEIKH/CHATTIN, MTND/HENKE, FAA/SE/CONLON
USDOC FOR ITA/JACOBS

E.O. 12958: N/A

TAGS: VM ETRD WTRO USTR

SUBJECT: U.S. - VIETNAM WTO ACCESSION NEGOTIATIONS, SEPTEMBER 15-17, 2005

SUMMARY AND COMMENT:

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¶11. U.S. AND VIETNAM CONDUCTED INTENSIVE NEGOTIATIONS ON THE MARGINS OF THE ONE-DAY WORKING PARTY MEETING IN GENEVA, SEPTEMBER 14-17. NEGOTIATORS CONTINUED TO NARROW THE GAPS IN ALL AREAS, LEAVING IN MOST CASES THE MOST SENSITIVE AND/OR POLITICALLY DIFFICULT ISSUES. EXAMPLES: ABOUT 100 OR SO AGRICULTURE LINES, ABOUT 700 OR SO INDUSTRIAL PRODUCTS (E.G., AUTOS, CHEMICALS, ETC) AND FINANCIAL SERVICES, TELECOM AND A FEW OTHER HORIZONTAL ISSUES. US SIDE RELATED ISSUES TO PNTR DEBATE, NOTING WHICH THAT MANY OF THE REMAINING ISSUES WILL FEATURE PROMINENTLY IN ANY PNTR DEBATE IN THE UNITED STATES. FOR EXAMPLE: IN AGRICULTURE, IT IS UNTENABLE FOR THE US TO ACCEPT HIGH RATES OF DUTY ON BEEF AND PORK, AREAS WHERE VIETNAM HAS GRANTED CHINA ZERO DUTY IN ITS BILATERAL FTA AGREEMENT; IN SUBSIDIES WHERE VIETNAM IS TRYING TO ADDRESS PROHIBITED SUBSIDIES, BUT STILL IS SOMEWHAT IN A "TRUST US" MODE; OR IN THE TREATMENT OF PUBLISHING AND PRINTED MATERIAL AND THE INTERSECTION OF SERVICES AND TRADING RIGHTS. WHILE THERE ARE GAPS, MOST OF THE ISSUES APPEAR ON A PATH THAT COULD LEAD TOWARDS SATISFACTORY RESOLUTION, WITH SOME WORK ON BOTH SIDES. HOWEVER, WORRYING SIGNS ARE LACK OF PROGRESS ON NON-TARIFF BARRIERS (PROHIBITIONS AND BANS ON MOTORCYCLES AND ENCRYPTED PRODUCTS AND CONFUSION ABOUT LEGISLATION AND DECREES WHICH COULD POTENTIALLY UNRAVEL BTA COMMITMENTS OR UNWIND WTO CONCESSIONS (E.G., LIMIT THE FORMS OF BUSINESS THAT HAVE ACCESS TO SERVICES COMMITMENTS.) U.S. SHARED THE SEPTEMBER 12 AMCHAM PAPER WITH VIETNAMESE SIDE. VIETNAM HAS MADE IMPORTANT PROGRESS WITH THE U.S. AND ITS TRADING PARTNERS, BUT U.S. IS NOT/NOT THE LAST WTO MEMBER STILL IN BILATERALS WITH THEM ON GOODS AND SERVICES. U.S. SIDE REITERATED ITS INTEREST IN MOVING AHEAD EXPEDITIOUSLY ON THE BILATERAL NEGOTIATIONS AND NECESSARY MULTILATERAL PROGRESS.

¶12. FOLLOW UP WILL BE IMMEDIATE, AND DEPENDING UPON PROGRESS AND PREPARATIONS. ANOTHER FACE-TO-FACE NEGOTIATING SESSION MAY BE SCHEDULED IN OCTOBER. NO DATES OR VENUES WERE AGREED BUT NEGOTIATORS WILL STAY IN TOUCH. ON MULTILATERAL SIDE AS WELL, THE WORKING PARTY CHAIRMAN EXHORTED DELEGATIONS TO COMPLETE THEIR BILATERAL NEGOTIATIONS BUT HAS NOT/NOT SCHEDULED ANOTHER WP MEETING. OUR SENSE IS THAT NEGOTIATORS UNDERSTAND THE WORK THAT NEEDS TO BE DONE AND THAT THE PACE OF WORK GENERALLY IN THE WTO AND DOMESTIC WORK NEEDED BY VIETNAM WILL TAKE THE NEGOTIATIONS INTO 2006. CHIEF NEGOTIATOR KHANH AT CONCLUSION OF MEETING TOLD AUSTR DWOSKIN THAT HE WAS PLEASED WITH PROGRESS AND FELT VERY HAPPY ABOUT THE BILATERAL NEGOTIATIONS. END SUMMARY AND COMMENT.

U.S. HOSTED "FRIENDS" MEETING

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¶13. AS IS CUSTOMARY IN ACCESSIONS, US TEAM CONVENED KEY DELEGATIONS TO ASSESS SITUATION AND MAXIMIZE POTENTIAL FOR PROGRESS IN THE WP MEETING. MEETING INCLUDED AUSTRALIA, CANADA, EU, JAPAN, AND NORWAY. ALL NOTED STEADY BUT INCREMENTAL PROGRESS ON NEGOTIATIONS WITH THE VIETNAMESE. THE EU NOTED THE CURRENT BAN ON IMPORT OF USED VEHICLES, WILL BE PROBLEMATIC. JAPAN, EU, CANADA AND NORWAY NOTED THAT THEY HAVE CONCLUDED BILATERAL NEGOTIATIONS, ALTHOUGH CANADA HAS NOT YET SIGNED ITS AGREEMENT. AUSTRALIA RAISED CONCERNS ABOUT INVESTMENT, SOE/STE, BUSINESS LICENSING AND REGISTRATION, SUBSIDIES AND INCENTIVES, SALT TARIFF RATE QUOTAS, ADMINISTRATION OF TARIFF RATE QUOTAS MORE BROADLY, THE DEFINITION OF PUBLIC GOODS/ GOVERNMENT PROCUREMENT AND AGRICULTURE (SPS AND PROBLEMS RELATED TO THE BILATERAL). U.S SHARED CONCERN THAT SOME DRAFT GOVERNMENT DECREES MAY HAVE THE EFFECT OF RE-REGULATING OR BUREAUCRATIZING REGISTRATION AND LICENSING PROCESSES THAT HAVE BEEN SIMPLIFIED AND STREAMLINED SINCE THE U.S.-VIETNAM BILATERAL TRADE AGREEMENT (BTA) WAS IMPLEMENTED IN DECEMBER 2001. DRAFT DECREES ON TRADING RIGHTS, MULTI-LEVEL SALES, FRANCHISING AND REPRESENTATIVE OFFICES ARE OF PARTICULAR CONCERN. U.S. NOTED IMPROVEMENT ON CUSTOMS VALUATION, IPR AND TRADING RIGHTS BUT THAT PROBLEMS REMAIN WITH SUBSIDIES, STATE OWNED ENTERPRISES/STATE TRADING ENTERPRISES (SOE/STE) AND EQUITIZATION. JAPAN AND THE EU SHARED U.S. CONCERN ON TRADING RIGHTS AND PROHIBITED SUBSIDIES. NOTE: NEGOTIATOR KHANH RAISED CONCERN THAT THE U.S. HAD CONVENED THIS MEETING, SUGGESTING THAT WE HAD ORGANIZED A SESSION TO ENSURE THAT VIETNAM WOULD NOT/NOT COMPLETE ITS WORK IN 2005. KHANH KNOWS BETTER, IN FACT, AS U.S. HAS CONVENED FRIENDS IN THE PAST

TO HELP PUSH THE PROCESS. WE WOULD BE INTERESTED TO KNOW IF POST HEARS ABOUT THIS. END NOTE AND COMMENT.

FORMAL WORKING PARTY MEETING

14. VIETNAM'S WORKING PARTY ON ACCESSION RECONVENED TO REVIEW THE REVISED DRAFT WORKING PARTY REPORT (WT/ACC/SPEC/VNM/5/REV.1), DISCUSS THE STATUS OF THE LEGISLATIVE ACTION PLAN FOR WTO IMPLEMENTATION, AND REVIEW THE STATUS OF BILATERAL NEGOTIATIONS FOR GOODS AND SERVICES COMMITMENTS. VIETNAM HAS COMPLETED BILATERAL NEGOTIATIONS WITH ARGENTINA, BRAZIL, BULGARIA, CANADA, CHILE, CHINA, CHINESE TAIPEI, COLOMBIA, CUBA, THE EU, EL SALVADOR, IRELAND, INDIA, JAPAN, KOREA, NORWAY, PARAGUAY, SINGAPORE, SWITZERLAND, TURKEY, AND URUGUAY. ONLY TEN BILATERAL AGREEMENTS ON GOODS AND SERVICES HAVE BEEN SUBMITTED FORMALLY TO THE SECRETARIAT. NEGOTIATIONS CONTINUE WITH AUSTRALIA, HONDURAS AND DOMINICAN REPUBLIC, MEXICO, NEW ZEALAND AND THE U.S. DELEGATIONS IGNORED THE CHAIRMAN'S PLEA TO DROP OPENING STATEMENTS IN EXCHANGE FOR ADDITIONAL TIME FOR SUBSTANTIVE DISCUSSION OF THE ISSUES. WHILE VIETNAM DID NOT REPEAT ITS FAMILIAR CALL FOR COMPLETION OF THE NEGOTIATIONS BY THE TIME OF THE WTO MINISTERIAL IN HONG KONG, IN MID-DECEMBER, OTHER WP MEMBERS DID, I.E., SINGAPORE, CHINA, CUBA, CHINESE TAIPEI, JAPAN AND INDIA. THESE DELS HAD CLEARLY COORDINATED STATEMENTS, STRESSING VIETNAM'S POVERTY AND NEED FOR TRANSITIONS TO IMPLEMENT WTO PROVISIONS. AUSTRALIA, THE EU, NEW ZEALAND, SWITZERLAND, MEXICO, CANADA AND THE U.S. DEMURRED, AND NOTED THAT MUCH WORK REMAINED TO BE COMPLETED WHILE EXPRESSING STRONG SUPPORT FOR THE ACCESSION.

15. OUTSTANDING SUBSTANTIVE CONCERNs IDENTIFIED BY DELEGATIONS INCLUDED: INVESTMENT (EU, SWITZERLAND, NEW ZEALAND, AUSTRALIA, AND U.S.); STATE-OWNED AND STATE TRADING ENTERPRISES (U.S. AND EU); EQUITIZATION (AUSTRALIA, EU, AND US); TRADING RIGHTS (AUSTRALIA, CANADA, EU, SWITZERLAND, U.S.); QUANTITATIVE RESTRICTIONS/LICENSING (AUSTRALIA, EU, U.S.), SUBSIDIES (AUSTRALIA, EU, U.S.); SPS (AUSTRALIA, U.S.); AND TRIPS (U.S. AND SWITZERLAND). THE U.S. HAS WORKED THE MOST CLOSELY WITH VIETNAM ON THE WP REPORT AND USED THE OPPORTUNITY FLAG QUESTIONS ON: DIRECTED LENDING; FOREIGN EXCHANGE CONTROLS; DISCRIMINATORY INTERNAL TAXES; CUSTOMS VALUATION; AND TECHNICAL BARRIERS TO TRADE, WHICH SHOULD ENABLE US TO OBTAIN CHANGES TO THE WP RESULT. WHETHER DUE TO BAD TRANSLATION OR UNWILLINGNESS, VIETNAM DID NOT RESPOND SUBSTANTIVELY TO MANY DELEGATIONS' QUESTIONS. IMPORTANT PIECES OF LEGISLATION WERE REQUESTED FOR REVIEW, INCLUDING THE DRAFT ORDINANCE ON STANDARDIZATION, AMENDED LEGISLATION ON CUSTOMS VALUATION, AND THE NEW INVESTMENT LAW.

16. NEXT STEPS: COMMENTS ARE TO BE SUBMITTED TO THE SECRETARIAT BY OCTOBER 6, FOLLOWING WHICH VIETNAM WILL RESPOND AND THE SECRETARIAT WILL REVISE THE REPORT. SIGNIFICANTLY, THE CHAIRMAN

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DID NOT ANNOUNCE DATES FOR THE NEXT WP MEETING IN HIS CLOSING STATEMENT. RATHER, HE URGED DELEGATIONS TO INTENSIFY THEIR BILATERAL NEGOTIATIONS FOR GOODS AND SERVICES MARKET ACCESS AND FILE COMPLETED SIGNED AGREEMENTS QUICKLY FOR CONSOLIDATION IN VIETNAM'S SCHEDULES. HE TOOK NOTE OF VIETNAM'S PROGRESS IN ENACTING NEW LAWS AND URGED IT TO MAINTAIN THE PACE OF IMPLEMENTING ITS LEGISLATIVE PROGRAM FOR WTO IMPLEMENTATION. HE ASKED VIETNAM TO SUBMIT NEWLY ENACTED LAWS TO THE SECRETARIAT AS SOON AS POSSIBLE. NOTE: WORK IN THE BILATERAL MEETINGS SHOULD FACILITATE DRAFTING OF THE REPORT, A POINT FOR WHICH THE U.S. DOES NOT SEEM TO BE RECEIVING CREDIT FROM THE VIETNAMESE. WE ARE AS FAR AS WE ARE IN THE DRAFT REPORT DUE LARGEly TO THE WORK THE U.S. TEAM HAS DONE WITH DRAFTING, RESEARCH AND REVIEW SINCE THE LAST MEETING. END NOTE.

U.S. VIETNAM BILATERAL NEGOTIATIONS

17. U.S. AND VIETNAM TEAMS CONDUCTED BILATERAL NEGOTIATIONS ON AGRICULTURE MARKET ACCESS, INDUSTRIAL GOODS, SERVICES AND MULTILATERAL ISSUES, MANY OF WHICH WERE THE SUBJECT OF OUR APROACH PAPERS IN THE LAST BILATERAL ROUND. DISCUSSIONS WERE VERY FRANK AND CANDID AND HOMEWORK WAS IDENTIFIED FOR BOTH SIDES AS NOTED BELOW.

AGRICULTURE MARKET ACCESS

18. THE TWO SIDES HAD A FRANK AND USEFUL EXCHANGE, HOWEVER THEY REMAIN FAR APART ON THE TARIFF TREATMENT OF BEEF AND PORK, TWO OF THE UNITED STATES' TOP PRIORITIES. U.S. NEGOTIATORS TOOK THE OPPORTUNITY TO EXPLAIN IN MORE DETAIL U.S. INTERESTS IN THE REMAINING AREAS, AND PROVIDED A FRANK ASSESSMENT OF THE IMPORTANCE OF COMMITMENTS ON PRODUCTS, LIKE PORK, WHICH WOULD BE LOOKED AT CAREFULLY IN A DEBATE ON PNTR. DISTILLED SPIRITS CONTINUES TO BE A POINT OF CONTENTION, AS U.S. NEGOTIATORS INSIST THAT VIETNAM ELIMINATE THE ELEMENTS OF ITS EXCISE TAX ("SPECIAL CONSUMPTION TAX" OR SCT) THAT DISCRIMINATE AGAINST IMPORTS. WHILE VIETNAM INDICATED IT HAD INTRODUCED LEGISLATION TO APPLY THE SAME SCT LEVEL TO ALL TYPES OF WINE, AS IT PREVIOUSLY COMMITTED TO DO WITH RESPECT TO BEER, IT INSISTED THAT ITS TREATMENT OF SPIRITS MIRRORS THE PRACTICE OF SOME OTHER COUNTRIES

IN ITS REGION. U.S. NEGOTIATORS COUNTERED THAT A NUMBER OF OTHER COUNTRIES IN THE REGION HAD INSTITUTED A SINGLE EXCISE RATE FOR SPIRITS, INCLUDING AS A RESULT OF WTO LITIGATION. AT THE CLOSE OF THE MEETING, VIETNAM INDICATED IT WILL PROVIDE A NEW TARIFF OFFER TO THE U.S. THE TWO SIDES WILL ALSO CONTINUE DISCUSSIONS ON THE SPIRITS TAX.

19. ACTION/FOLLOW-UP. VIETNAM WILL PROVIDE A REVISED TARIFF OFFER, AND WILL FURTHER REFLECT ON SPIRITS EXCISE TAX. U.S. WILL CONSULT FURTHER WITH INDUSTRY AFTER RECEIVING INPUTS FROM VIETNAM.

INDUSTRIAL TARIFFS AND RELATED NTBS

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10. FURTHER PROGRESS WAS MADE ON NARROWING THE LIST OF PRIORITY GOODS UNDER NEGOTIATIONS. THE SESSION STARTED WITH DIFFERENCES ON CLOSE TO 2,000 LINES AND NOW LESS THAN 700 LINES ARE OF CONCERN. THE TWO SIDES EXCHANGED INFORMATION ON BOTH PRODUCT PRIORITIES AND PRODUCT SENSITIVITIES AND WERE ABLE TO FINISH NEGOTIATIONS IN SIX ADDITIONAL PRODUCT SECTORS, BUILDING ON THE THREE SECTORS COMPLETED IN EARLIER DISCUSSIONS. REMAINING OUTSTANDING ISSUES INCLUDE PAPER, AGRICULTURAL AND CONSTRUCTION EQUIPMENT, CIVIL AVIATION, PHARMACEUTICALS, CHEMICALS AND AUTOS/AUTO PARTS. THE AUTO SECTOR CONTINUES TO BE A DIFFICULT AREA, IN PART BECAUSE VIETNAM CONTINUES TO INCREASE ITS ALREADY SUBSTANTIAL SPECIAL CONSUMPTION TAX (SCT) FOR THIS SECTOR. NOTE: U.S. SIDE NEEDS TO REVIEW THE SITUATION WITH U.S. COMPANIES, AS PRESENT OFFER OF 75% ON AUTOS WILL BE A TOUGH SELL FOR PNTR, BUT VIETNAMESE SUGGEST THAT ONE REASON FOR HIGH RATES IS TO PROTECT EXISTING INVESTMENTS.

11. WE REVIEWED FOUR MAJOR CATEGORIES OF NON-TARIFF MEASURES: MOTORCYCLES WITH MOTORS LARGER THAN 175CC; ELECTRONIC IMPORTS WITH ENCRYPTION TECHNOLOGY; REMANUFACTURED ELECTRONICS; AND CHEMICALS THAT ARE PROHIBITED OR IMPORTED ONLY CONDITIONALLY. IN EACH CASE, THE RESTRICTION WILL EFFECTIVELY BLOCK PROMISING U.S. EXPORTS AFTER ACCESSION, E.G. LARGE MOTORCYCLES, VARIOUS ITA PRODUCTS, AND CERTAIN CHEMICALS WHOSE USE IN THE UNITED STATES AND ELSEWHERE IS CONTROLLED, BUT HARDLY PROHIBITED. VIETNAM OFFERED ONLY TO CODIFY THE CURRENT BAN ON LARGE MOTORCYCLE IMPORTS AND SHOWED SIMILAR RELUCTANCE TO REVISIT THE APPLICATION OF THE OTHER RESTRICTIONS IN LIGHT OF U.S. CONCERNS. WHILE THE DISCUSSION IMPROVED UNDERSTANDING OF THE BASIS FOR THE RESTRICTION, THE WTO JUSTIFICATION FOR THE MEASURES IS POOR. BOTH SIDES AGREED TO PROVIDE ADDITIONAL INFORMATION, CONSULT WITH DOMESTIC INTERESTS TO HELP CLARIFY ISSUES, AND RESUME DISCUSSIONS ON THESE AND OTHER NTBS. NEVERTHELESS, VIETNAM MADE IT CLEAR THAT IT IS NOT READY TO ALTER ITS POLICIES ON THE FOUR CATEGORIES REVIEWED AT THIS MEETING.

12. ACTION/FOLLOW-UP. VIETNAM: WILL PROVIDE REVISED OFFER. U.S. WILL START CONSULTATIONS WITH INDUSTRY ON OUTSTANDING ISSUES TO FURTHER ADDRESS/CLARIFY PRIORITIES AND POSSIBLE SOLUTIONS ON NTBS. ONE AREA U.S. WILL NEED TO REVIEW IS WHAT ADDITIONAL REGULATION MAY BE PLANNED WHERE VIETNAM IS ELIMINATING TRADING RIGHTS, BOTH UPON ACCESSION AND AFTER TRANSITIONS, AND FACTOR THE RESULT INTO TARIFF OFFER.

SERVICES

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13. NEGOTIATORS CONTINUE TO MAKE PROGRESS SINCE LAST BILATERAL. IN ANOTHER INNOVATION, U.S. AND VIETNAM MANAGED TO HAVE EXTENSIVE CONFERENCE CALL TO INCLUDE U.S. TREASURY NEGOTIATOR TO REVIEW BANKING AND SECURITIES ISSUES. KHANH AND LEM WERE ORIGINALLY SCEPTICAL THAT THIS COULD BE USEFUL, BUT AGREED THAT THIS WAS A PRODUCTIVE MODE TO CONTINUE DISCUSSIONS.

14. NEGOTIATIONS WERE FRANK AND PRODUCTIVE. RESPONSIVENESS FROM VIETNAM AFTER SINCE THE LAST BILATERAL DISCUSSION IN JUNE ALLOWED US TO CLOSE SEVERAL (OF THE LESS IMPORTANT) SECTORS DURING THIS MEETING. DIFFERENCES HAVE BEEN NARROWED TO A FEW DIFFICULT, BUT IMPORTANT SECTORS SUCH AS TELECOMMUNICATIONS, FINANCIAL SERVICES AND ENERGY SERVICES. FOR THESE AREAS, BOTH SIDES HAVE SHOWED FLEXIBILITY AND HAVE AGREED TO WORK TOGETHER ON STRATEGIES TO REACH A POSSIBLE FINAL PACKAGE. HOWEVER, IMPORTANT CHALLENGES REMAIN, INCLUDING WHAT APPEARS TO BE A TROUBLING PATTERN OF USING IMPLEMENTING DECREES THAT MAY UNDERMINE SOME BTA COMMITMENTS AND NEW LEGISLATION DRAFTED TO IMPLEMENT VIETNAM'S WTO OBLIGATIONS. WE HAVE ADDRESSED EXISTING DRAFT DECREES, BUT FURTHER LEGAL DOCUMENTS WILL REQUIRE ACTIVE MONITORING.

15. ON FINANCIAL SERVICES, THE OFFER ON INSURANCE ONLY LACKS A COMMITMENT FOR BRANCHING, SOMETHING THAT VIETNAM THINKS IS NOT OF INTEREST TO U.S. INDUSTRY; U.S. SIDE SUGGESTED THAT THERE WERE VARIOUS WAYS TO ADDRESS BRANCHING, INCLUDING USE OF TRANSITIONS. ON BANKING AND SECURITIES, VIETNAM WILL REVIEW AGAIN SECURITIES POSITIONS, INCLUDING IN PARTICULAR THE SITUATION FOR BRANCHING. U.S. HAD BEEN UNDER THE IMPRESSION THAT BRANCHING WAS GOING TO BE OFFERED AS A RESULT OF THE 2006 LEGISLATION. ON BANKING, THERE WAS A USEFUL DISCUSSION ABOUT THE PROBLEMS AND CONCERNS ABOUT FURTHER BRANCHING AND THE USE OF SUBSIDIARIES. ON TELECOM, NEGOTIATORS WERE INSTRUCTED TO CONSIDER POSSIBLE PACKAGE BUILDING ON IDEA OF SEPARATING FACILITIES-BASED FROM NON-FACILITIES BASED SERVICES AND IDENTIFYING PRIORITY SUBSECTORS WITHIN THOSE TWO CATEGORIES.

¶16. ACTION/FOLLOW-UP. ON KEY ISSUES -- BANKING: U.S. TO PROVIDE VIETNAM WITH INFORMATION ABOUT BRANCHING, INCLUDING ACTIVITIES OF HEADQUARTERS AND SCOPE OF BUSINESS AND AUTHORITIES. U.S. IS TO LOOK AT 30% ACQUISITION LANGUAGE OFFER A REVISION; U.S. TO SUGGEST SOME LANGUAGE FOR THE WP REPORT. OTHER CLEANUP AS AGREED. VIETNAM WILL COME BACK TO US SIDE REGARDING DECREES, INCLUDING PUBLIC SECTOR.

MULTILATERAL ISSUES

¶17. IMPORT LICENSING: REVIEW OF VIETNAM'S NEW IMPORT LICENSING PROCEDURES QUESTIONNAIRE FOCUSED ON THE SCOPE OF VIETNAM'S CURRENT AND PROSPECTIVE USE OF IMPORT LICENSING MEASURES, E.G., WHEN CURRENT TRADING RIGHTS RESTRICTIONS ARE PHASED OUT. THE U.S. SOUGHT ADDITIONAL INFORMATION ON LICENSING PROCEDURES USED TO ADMINISTER TRQS AND THE ROLE OF LINE MANAGEMENT AGENCIES IN GRANTING THE LICENSES. WHILE THE REVISED QUESTIONNAIRE RESPONSES WERE HELPFUL, SPECIFICS ON HOW THE SYSTEM OPERATED WERE THIN. VIETNAM AGREED TO PROVIDE MORE INFORMATION ON PROCEDURES AND REQUIREMENTS FOR APPLICANTS. THE U.S. AGREED TO PROVIDE WRITTEN COMMENTS AND QUESTIONS TO HELP IMPROVE THE DOCUMENT FOR FURTHER REVISION.

¶18. TRADING RIGHTS: GOOD PROGRESS WAS MADE IN DISCUSSIONS ON TRADING RIGHTS, BASED ON U.S. SUGGESTIONS ON AN APPROACH TO ADDRESSING THIS SECTOR PRESENTED TO VIETNAM IN JUNE. WE REVIEWED VIETNAM'S NEW TRADING RIGHTS RESTRICTIONS AS PRESENTED IN THE REVISED DRAFT WORKING PARTY REPORT, AND ATTEMPTED TO DRAW OUT THE DIFFERENCES BETWEEN TRADING RIGHTS AND STATE TRADING. VIETNAM AGREED THAT SOME TRADING RIGHTS RESTRICTIONS NEEDED TO BE REVIEWED AGAIN. WE ALSO USED THE OPPORTUNITY TO DISCUSS CONCERN ABOUT PRINTED AND PUBLISHED MATERIALS, AND THE ACTUAL SITUATION IN VIETNAM, WHICH KANH PROMISED TO PROVIDE FURTHER DETAILS. THE TWO SIDES ALSO DISCUSSED VIETNAM'S PROSPECTIVE BUSINESS REGISTRATION SYSTEM NEEDED TO EXPAND TRADING RIGHTS AND IDENTIFIED INCONSISTENCIES WITH GATT ARTICLES III AND XI IN THE CURRENT PLAN, INCLUDING STIPULATIONS THAT ONLY FIRMS INVESTED IN VIETNAM OR RESIDENTS OF VIETNAM WOULD BE ABLE TO OBTAIN TRADING RIGHTS.

¶19. STATE-OWNED ENTERPRISES (SOE)/STATE TRADING ENTERPRISES (STE): AFTER CONSIDERABLE DISCUSSION INTENDED TO CLARIFY THE CURRENT SITUATION, , THE U.S. AGREED TO USE THE INFORMATION GAINED TO REDRAFT THE WORKING PARTY REPORT SECTION WHICH ADDRESSES SOE/STE, INCLUDING DRAFT COMMITMENT LANGUAGE, WITH THE OBJECTIVE OF REACHING COMPROMISE BETWEEN CURRENT U.S. AND VIETNAMESE PROPOSALS. VIETNAM OFFERED TO MAKE A COMMITMENT THAT THE STATE DOES NOT INTERVENE IN COMMERCIAL ACTIVITIES OF SOEs, ALTHOUGH WE ARE UNSURE AS TO HOW THIS RELATES TO REGULATING PUBLIC UTILITIES. FURTHER WORK NEEDS TO BE DONE ON THE DEFINITION AND IDENTIFICATION OF PUBLIC GOODS AND SERVICES. PROGRESS WAS MADE IN UNDERSTANDING THE TERMINOLOGY ON CORPORATE FORMS OF SOEs, TRANSPARENCY AND RELATED ISSUES. VIETNAM AGREED TO PROVIDE ADDITIONAL INFORMATION ON THE WAY IN WHICH SOEs WITH UNIQUE TRADING RIGHTS IN PARTICULAR SECTORS WILL OFFER FOREIGNERS THE OPPORTUNITY TO PARTICIPATE IN THESE SECTORS. NOTE: THIS WILL BE AN IMPORTANT ISSUE GIVEN THE U.S. REQUIREMENTS OF SECTION 1106 OF THE 1988 TRADE ACT.

¶20. INDUSTRIAL SUBSIDIES/NON-MARKET ECONOMY PROVISIONS: WE REVIEWED ALL OF VIETNAM'S SUBSIDY PROGRAMS TO DETERMINE WHICH PROGRAMS WERE PROHIBITED UNDER THE WTO SUBSIDIES AGREEMENT. THE TWO SIDES AGREED THAT MOST PROHIBITED SUBSIDIES WILL BE TERMINATED UPON ACCESSION, WHILES OTHERS ARE UNDER CONSIDERATION FOR A TRANSITION PERIOD, THE TERMS AND LENGTH OF WHICH IS A TOPIC FOR ADDITIONAL DISCUSSION. VIETNAM AGREED TO PROVIDE A NEW, REFORMATTED SUBSIDIES NOTIFICATION WHICH WILL BE USED AS A BASIS FOR FURTHER DISCUSSION. NOTE: VIETNAM IS WORRIED ABOUT HAVING TO PROVIDE DATA HERE AND THAT THIS WILL SLOW THE PROCESS DOWN. AS A PRACTICAL MATTER, GETTING A HANDLE ON THE SUBSIDY ISSUE WILL BE ESSENTIAL FOR THE PNTR DEBATE AND FOR THE U.S. TO BE ABLE TO JUSTIFY AGREEING TO TRANSITIONS OF ANY KIND RELATED TO SUBSIDY PROGRAMS THAT ARE INCONSISTENT WITH THE WTO. ON A RELATED MATTER, VIETNAM OBJECTED TO THE LANGUAGE IN THE U.S. SUBSIDY APPROACH DEALING WITH NON-MARKET ECONOMY METHODOLOGY. U.S. ADVISED THAT SOME LANGUAGE WOULD BE NECESSARY IN THIS REGARD AS LONG AS VIETNAM WAS A NON-MARKET ECONOMY. NOTE: THE VIETNAMESE SIDE ATTEMPTED TO ARGUE THAT UPON JOINING THE WTO VIETNAM WOULD BE, BY DEFINITION, A MARKET ECONOMY. U.S. SIDE EXPLAINED COMMERCE PROCESS CAREFULLY AND OFFERED TO PROVIDE RELEVANT NME LANGUAGE FOR THE WP. END NOTE.

DELEGATIONS

¶21. VIETNAMESE TEAM INCLUDED:
LUONG VAN TU - VICE MINISTER OF TRADE
NGUYEN QUOC HUY - OFFICE OF THE GOVERNMENT
PHAN CHI THANH - OFFICE OF THE GOVERNMENT
VU HAI TRIEU - MINISTRY OF PUBLIC SECURITY
NGUYEN VAN PHUC - OFFICE OF THE NATIONAL ASSEMBLY
NGUYEN VAN LONG - OFFICE OF THE NATIONAL COMMITTEE FOR INT'L ECONOMIC COOPERATION
TRAN QUOC KHANH - MINISTRY OF TRADE
HA HUY TUAN - MINISTRY OF FINANCE
HOANG PHUOC HIEP - MINISTRY OF JUSTICE
PHAN TAM - MINISTRY OF POST AND TELECOMMUNICATION

122. U.S. TEAM INCLUDED

DOROTHY DWOSKIN - USTR
CECILIA KLEIN - USTR
GREG HICKS - USTR
MIKHAIL ZELDOVICH - USTR
DANIEL WATSON - USTR
JON MCHALE - USTR
ELENA BRYAN - USTR
SARAH ROGGE - USTR
ROY MALMROSE - USTR
KATRICE KELLY - USDOC
TOM FINE - USDOC
BARBARA CHATTIN - USDA
MARY ELLEN SMITH - USTR
CARA MORROW - USDOC
D.E. SONNEK - DEPT. OF STATE
WILLIAM TAGLIANI - USTR